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JUN 27 1994	
CLERK US DISTRICT COURT	
DISTRICT OF ARIZONA	
BY <u>/s/ D. Lucas</u> DEPUTY	

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

In the matter of)
)
PLAN FOR COMPOSITION,)
ADMINISTRATION AND)
MANAGEMENT OF THE PHOENIX) GENERAL ORDER 98-35
PANEL OF PRIVATE ATTORNEYS)
UNDER THE CRIMINAL JUSTICE)
ACT)
)
)
_____)

The Judges of the Phoenix Division having considered and approved a proposed Plan for Composition, Administration and Management of the Phoenix Panel of Private Attorneys Under the Criminal Justice Act,

IT IS ORDERED that the Plan for Composition, Administration and Management of the Phoenix Panel of Private Attorneys Under the Criminal Justice Act, attached hereto is adopted for use in the Phoenix Division.

DATED this 24th day of June, 1994.

/s/ Robert C. Broomfield
Robert C. Broomfield, Chief Judge

**PLAN FOR THE COMPOSITION, ADMINISTRATION AND MANAGEMENT
OF THE PHOENIX PANEL OF PRIVATE ATTORNEYS UNDER THE
CRIMINAL JUSTICE ACT, 18 U.S.C. § 3006A, et seq.**

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL

1. **Approval.** The Phoenix Division of the Court shall establish a panel of private attorneys (hereinafter referred to as the “CJA Panel”) who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Judges of the Phoenix Division shall approve attorneys for membership on the panel after receiving recommendations from the “Panel Selection Committee,” established pursuant to paragraph B of this Plan. Members of the CJA Panel shall serve at the pleasure of the Court.

2. **Size and Composition.** The Phoenix Division shall fix, periodically, the size and composition of its CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.

The CJA Panel shall be divided into four separate lists of attorneys for major felonies, felonies, misdemeanors and appeals. The Phoenix Division will designate panel members for each list after receiving recommendations from the Panel Selection Committee.

3. **Eligibility.** Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Sentencing Guidelines. For membership on the major felony list it is strongly recommended that attorneys be certified as criminal specialists under the Arizona Legal Specialization Program.

Subsection (b) of the Criminal Justice Act provides, in part, that:

Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan.

However, when a district judge or magistrate judge determines that the appointment of an attorney, who is not a member of the CJA panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA panel *pro hac vice* and appointed to represent the CJA defendant. Consideration for preserving the integrity of the panel selection process suggests that such appointments should be made only in exceptional circumstances. Further, the attorney, who may or may not maintain an office in the district, should possess such qualities as would qualify him or her for admission to the district’s CJA panel in the ordinary course of panel selection.

4. Application. Application forms for membership on the CJA Panel shall be made available, upon request, by the Federal Public Defender. Completed applications shall be submitted to the Federal Public Defender who will transmit the applications to the Chairperson of the Panel Selection Committee.

B. PANEL SELECTION COMMITTEE

1. Membership. A Panel Selection Committee shall be established by the Phoenix Division of the Court. The Committee shall consist of a judge of the Superior Court of Maricopa County, the Federal Public Defender or his/her representative, and one attorney from each of the following organizations: the State Bar of Arizona, the Maricopa County Bar Association, and Arizona Attorneys for Criminal Justice. The Committee shall select its own Chairperson. None of the Committee members shall be on the CJA Panel or associated in the practice of law with any lawyer on the CJA panel.

2. Duties.

- a. The Panel Selection Committee shall meet at least twice a year to consider applications for vacancies. The Committee shall review the qualifications of applicants and recommend, for approval by the Court, those applicants best qualified to fill the vacancies. The Committee will specify for each applicant whether it is recommending approval for the major felony, felony, misdemeanor or appeal list.

At its bi-annual meetings, the Committee shall also review the operation and administration of the panel, and recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management, including removal of panel attorneys. The Committee shall also report annually as to the continued availability and willingness of each panel member to accept appointments.

- b. If, at any time during the course of a year, the number of vacancies due to resignation, removal, or death significantly decreases the size of the panel, the Committee shall solicit applications for the vacancies, convene a special meeting to review the qualifications of the applicants, and select prospective members for recommendation to the Court for approval.

II. SELECTION FOR APPOINTMENT

A. MAINTENANCE OF LISTS AND DISTRIBUTION OF APPOINTMENTS

The Federal Public Defender shall maintain the current lists of all attorneys included on the CJA Panel, with current office addresses and the telephone numbers, as well as a statement of qualifications and experience. The Federal Public Defender shall furnish a copy of this list to each district judge and magistrate judge. The Federal Public Defender shall also maintain a record of assignments to private counsel from each list.

B. METHOD OF SELECTION

Appointments from the lists of private attorneys should be made on a rotational basis, subject to the Court's discretion to make exceptions due to the nature and complexity of the case, including whether it is a capital case, an attorney's experience, and geographical considerations. Unless otherwise ordered by the court, the appointments shall be made from each list, major felony, felony, misdemeanor and appeal according to the nature of the case. For CJA panel purposes the term "major felony" shall mean all Class A and B felonies as defined in 18 U.S.C. § 3559(a). The term "felony" shall mean all other felony offenses. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel, and quality representation for each CJA defendant.

Upon the determination of a need for the appointment of counsel, the district judge or magistrate judge shall notify the Federal Public Defender of the need for counsel and the nature of the case.

In the event of an emergency, i.e., weekends, holidays, or other non-working hours, the presiding district judge or magistrate judge may appoint any attorney from the list. In all cases where members of the CJA Panel are appointed out of sequence, the appointing district judge or magistrate judge shall notify the Federal Public Defender as to the name of the attorney appointed and the date of the appointment.

III. COMPENSATION - FILING OF VOUCHERS

Claims for compensation shall be submitted on the appropriate CJA form to the office of the Clerk of the Court. The Clerk of the Court shall review the claim form for mathematical and technical accuracy, and for conformity with the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the presiding district judge or magistrate judge.